

REMARKS

I. Introduction

Claims 1-8, 11-29, 37-44, 47-65, 73-80, 83-101 and 109-132 were pending in the above-identified application.

The Examiner rejected claims 1, 2, 11, 13, 14, 37, 38, 47, 49, 50, 73, 74, 83, 85 and 86 under 35 U.S.C. § 102(b) as being anticipated by Brown U.S. Patent No. 5,822,530 (hereinafter "Brown"). The Examiner rejected claims 3, 15, 17, 18, 22-25, 39, 51, 53, 54, 58-62, 75, 87, 89, 90 and 94-98 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Haddad U.S. Patent Application No. 2005/0097619 (hereinafter "Haddad")¹. The Examiner rejected claims 5-8, 41-44 and 77-80 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Schumacher U.S. Patent No. 6,757,907 (hereinafter "Schumacher"). The Examiner rejected claims 12, 48 and 84 under 35 U.S.C. § 103(a) as being unpatentable over Brown. The Examiner rejected claims 16, 52 and 88 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Haddad and

¹ Applicants note that although the Examiner does not list claim 26 in the heading of the rejection, the Examiner provides reasoning for its rejection in the following comments. Accordingly, applicants will treat claim 26 as being rejected by the Examiner under 35 U.S.C. § 103(a) for being unpatentable over Brown in view of Haddad.

Schumacher. The Examiner rejected claims 4, 19-21, 40, 55-57, 76 and 91-93 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Shah-Nazaroff U.S. Patent No. 6,157,377 (hereinafter "Shah-Nazaroff"). The Examiner rejected claims 28, 64, 100, 109, 111-112, 117, 119, 120, 125, 127 and 128 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Giammaressi U.S. Published Patent Application No. 2003/0061619. The Examiner rejected claims 29, 65, 101, 113, 115-116, 121, 123-124, 129, 131 and 132 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Giammaressi. The Examiner rejected claims 110, 118 and 126 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Giammaressi and Shah-Nazaroff. The Examiner rejected claims 114, 122 and 130 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Haddad, Giammaressi and Shah-Nazaroff.

The Examiner's rejections are respectfully traversed. Claims 28, 29, 64, 65, 100, 101 and 109-132 have been cancelled without prejudice.

II. Applicants' Independent Claims

The remaining independent claims, namely claims 1, 37 and 73, are directed towards managing the distribution of on-demand media using an interactive television application. A request for on-demand media is received from a user, where the on-demand media is associated with a suggested bandwidth for transmission. An available bandwidth for the transmission of the on-demand media to the user is determined and compared to the suggested bandwidth. Subsequently, an option for the transmission of the on-demand media is provided to the user that is based at least partially on the comparison of the suggested bandwidth to the available bandwidth. In addition, the available bandwidth is presented to the user on a display.

III. Summary of Examiner Interview

Applicants wish to thank the Examiner, David R. O'Steen, and his supervisor, Andrew Y. Koenig, for the courtesies extended during the telephonic interview on May 16, 2007.

During the interview, the Brown reference was discussed, and in particular the portions of Brown cited by the Examiner in the May 4, 2007 Office Action (e.g., col. 6, lines 20-29 and col. 4, lines 11-16). As a result, the Examiner and the Examiner's supervisor both agreed that Brown does not disclose presenting an available bandwidth for transmission of on-demand media to a user on a display, as set forth in applicants' independent claims 1, 37 and 73. The Examiner's supervisor requested that applicants file a reply to more fully present applicants' arguments. The Examiner's supervisor also indicated his willingness to allow these claims in response to applicants' reply unless relevant art is found, in which case he and/or the Examiner will place a telephonic call to the undersigned prior to the issuance of another Office Action.

IV. Applicants' Reply to the Claim Rejection
Under 35 U.S.C. § 102(b)

The Examiner maintained the rejection of claims 1, 2, 11, 13, 14, 37, 38, 47, 49, 50, 73, 74, 83, 85 and 86 under 35 U.S.C. § 102(b) as being anticipated by Brown. The Examiner's rejection is respectfully traversed.

As discussed above, independent claims 1, 37 and 73 are directed towards managing the distribution of on-demand media using an interactive television application, whereby an option for the transmission of the on-demand media is provided to the user based at least partially on a comparison of the suggested bandwidth to the available bandwidth, and the available bandwidth is presented to the user on a display.

Brown refers to an interactive communication system for processing requests for video-on-demand media content. Brown fails to teach applicants' claimed approach of presenting the available bandwidth to the user. In the May 4, 2007 Office Action, the Examiner stated that Brown teaches this subject matter. In particular, the Examiner stated that, according to Brown, "[w]hen a VOD service cannot be enjoyed by a user, the system inquires whether the user would prefer an NVOD presentation of the content" (see May 4, 2007 Office Action, P. 3). In addition, the Examiner stated that Brown teaches presenting this option to the user on the television display. The Examiner thus submitted that these portions of Brown teach applicants' limitation in claims 1, 37 and 73 of presenting the available bandwidth to the user on a display. Applicants respectfully disagree. Presenting options for downloading an

NVOD presentation does not constitute presenting the actual bandwidth available for on-demand media transmission. Nowhere else does Brown disclose presenting available bandwidth to the user on a display, as specified in independent claims 1, 37 and 73. As discussed in Section III above, the Examiner and his supervisor agreed with applicants on these points during the May 16, 2007 interview.

For at least the forgoing reasons, applicants respectfully submit that independent claims 1, 37 and 73 are allowable over Brown. Because claims 2, 11, 13, 14, 38, 47, 49, 50, 74, 83, 85 and 86 directly or indirectly depend from allowable claims 1, 37 and 73, applicants respectfully submit that claims 2, 11, 13, 14, 38, 47, 49, 50, 74, 83, 85 and 86 are also allowable.

V. Applicants' Reply to the Claim Rejections
Under 35 U.S.C. § 103(a)

The Examiner maintained the rejection of claims 3-8, 12, 15-29, 39-44, 48, 51-65, 75-80, 84, 87-101 and 109-132 under § 103(a) as being unpatentable over Brown and different combinations of Haddad, Schumacher, Shah-Nazaroff and

Giammaressi. The Examiner's rejections are respectfully traversed.

A. Claims 28, 29, 64, 65, 100, 101 and 109-132

Applicants have canceled claims 28, 29, 64, 65, 100, 101 and 109-132 without prejudice. Applicants reserve the right to pursue these claims in one or more continuation applications. Accordingly, applicants request that the rejections of these claims under 35 U.S.C. § 103(a) be withdrawn.

B. Claims 3-8, 12, 15-27, 39-44, 48, 51-63, 75-80, 84 and 87-99

Applicants have demonstrated in Section IV above that independent claims 1, 37 and 73 are allowable. Because claims 3-8, 12, 15-27, 39-44, 48, 51-63, 75-80, 84 and 87-99 depend from allowable claims 1, 37 and 73, applicants respectfully submit that claims 3-8, 12, 15-27, 39-44, 48, 51-63, 75-80, 84, and 87-99 are also allowable. Applicants therefore request that the rejections of these claims under 35 U.S.C. § 103(a) be withdrawn.

VI. Conclusion

For the reasons set forth above, this application is in condition for allowance. As set forth during the May 16, 2007 telephonic interview, the Examiner and his supervisor are invited to contact the undersigned at (212) 596-9000 if either of them disagrees.

Respectfully submitted,



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